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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,708	03/24/2000	Robert G. Arsenault	PD-980130	2593

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THE DIRECTV GROUP INC  
PATENT DOCKET ADMINISTRATION RE/R11/A109  
P O BOX 956  
EL SEGUNDO, CA 90245-0956

EXAMINER

TRAN, HAI V

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/534,708

Applicant(s)

ARSENAULT ET AL.

Examiner

Hai Tran

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) 1-27 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 07/24/2002 has been misplaced; therefore, the Examiner requests Applicant to re-submit a copy of the missing IDS so the Examiner could take in consideration the information referred to therein as to the merits in the next Office Action.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-27, drawn to a digital processing within a satellite receiver, classified in class 725, subclass 68.
- II. Claims 28-37, drawn to an EPG for a broadcast television, classified in class 725, subclass 39, 46 and 48.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the detail of the broadest Subcombination Claim 28 such as "...broadcasting television content and program guide data, the television content divided into a plurality of television channels, each television

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channel constructed from at least one content component, the program guide data including multiple channel objects, each channel object associated with one of the television channel, each channel object including at least one channel definition that defines the content components needed to construct the television channel associated with that channel object." is not recited in the broadest combination claim 1.

The subcombination of Group II has separate utility apart from the satellite video distribution system with conditionally processing of digital objects can be used other than in a satellite distribution system, such as providing television programming guide.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Georgann Grunebach (Reg. # 33179) on 03/25/2004 a provisional election was made with traverse to prosecute the invention of Group II, claims 28-37. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-27 withdrawn from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 28-37 are rejected under 35 U.S.C. 102(e) as being Gordon by US

2001/0056577A1.

Claim 1, Gordon discloses a method of broadcasting TV content and program guide data (Fig. 1 and 2), the TV content (video sources) divided into a plurality of TV channels (i.e., FOX... page 6, sect. 0065), each TV channel constructed from at least one content component (page 6, sect. 0065), the program guide data including multiple channel objects (page 5, sect. 0050), each channel object (Fig. 1, el. 135; Fig. 11-14, el. 610-1..8), associated with one of the TV channels (Fig. 11A-14; i.e. CNN associates with channel 5), each channel object (TV program icons, i.e. CNN), including at least one channel definition (i.e., Program name) that defines the content components needed to construct the TV channel associated with that channel object (page 11, sect. 1113-0114), wherein the method comprising:

Providing the TV content and the program guide data (Fig. 4);

Adding conditional logic to channel objects that include more than one channel definition, the conditional logic including one or more conditions that must be evaluated by a receiver to identify an appropriate channel definition (page 9, sect. 0088);

Combining the TV content and the program guide data into an output stream (Fig. 4, el. 450); and broadcasting the output stream to a plurality of receivers (page 6, sect. 0062-page 7, sect. 0070).

Claim 29, wherein one of the conditions contained in the conditional logic of a channel object is based on subscription data representing channels to which a user subscribes (page 8, sect. 0084-0088).

Claim 30, wherein one of the conditions contained in the conditional logic of a channel object is based on selection history data representing programs that a user has previously watched (page 9, sect 0098; page 15, sect 0144-0148; page 17, sect.0174).

Claim 31, wherein one of the conditions contained in the conditional logic of a channel object is based on receiver characteristics data representing a characteristic of the receivers (page 9, sect. 0091-92).

Claim 32, wherein the receiver characteristic data includes geographic location data representing a specific geographic location, and one of the conditions contained in the conditional logic of a channel object is based on the geographic location data (page 9, sect. 0098).

Claim 33, wherein the receiver characteristics data includes at least one identification code that uniquely identifies a receiver, and one of the conditions

contained in the conditional logic of a channel object is based on the identification code (page 7, sect. 0070).

Claim 34, wherein the conditions contained in the conditional logic of a channel object is based on both the current time at the site of the receivers and subscription data representing channels to which users of the receivers subscribe (page 5, section 0057-059; page 8, sect. 0085 and page 10, sect 0102).

Claim 35, wherein one of the conditions contained in the conditional logic of a channel object associated with a pay per view television channel is based on the current time at the site of the receivers and pay per view purchase data representing pay per view programs that have been ordered by a user (page 5, section 0057-059; page 8, sect. 0087 and page 10, sect 0102).

Claim 36, Gordon discloses a method of receiving television content and program guide data that is broadcast from a television broadcasting station (Fig. 2), the TV content (video sources) divided into a plurality of TV channels (i.e., FOX... page 6,sect. 0065), each TV channel constructed from at least one content component (page 6, sect. 0065), the program guide data including multiple channel objects (page 5, sect. 0050), each channel object (Fig. 1, el. 135; Fig. 11-14, el. 610-1..8), associated with one of the TV channels (Fig. 11A-14; i.e. CNN associates with channel 5), each channel object (TV program Icons, i.e. CNN), including at least one

channel definition (i.e., Program name) that defines the content components needed to construct the TV channel associated with that channel object (page 11, sect. 1113-0114), each channel object with more than one channel definition including conditional logic having one or more conditions that must be evaluated to identify an appropriate channel definition (page 9, sect. 0088), the method comprising:

Receiving the TV content and the program guide data by a receiver station that includes a receiver;

Storing the program guide data in a memory 276 (sect. 0092);

Receiving a tuning request that selects a TV channel (page 3, sect. 0036);

Responding to the tuning request by evaluating the conditions in the conditional logic of the channel object associated with the selected TV channel and identifying the appropriate channel definition for that TV channel (page 3, sect. 0037-0040); and

Generating an output of the selected TV channel, the output including the content components defined by the identified appropriate channel definition (page 5, sect-0056-page 6, sect. 0060).

Claim 37 apparatus claim is analyzed with respect to method claim 36.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



Eyer et al. (US 6160545) shows multi-regional interactive program guide for television.

Morrison (WO 98/43419) shows a picture in an EPG for a video processing system.

Legall et al. (US 6081263) shows a system and method of a user configurable display of information resources.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is 703-308-7372. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht  
04/15/2004

  
HAI TRAN  
PATENT EXAMINER